IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2115 OF 2005

Atulya Mafatlal ...Petitioner

Versus

State of Maharashtra & Anr ...Respondents

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Mr. V.M. Sharma, Advocate for Petitioner

Mrs. Bina H. Jariwala i/b Mr. Hemang Jariwala, Ad. for Respondent No.2.

Mr. B.H. Mehta, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 9TH SEPTEMBER, 2005

P. C.:-

1. Heard the learned advocate for the petitioner, the learned advocate for the respondent No.2 i.e. original complainant and learned A.P.P. for the State.

2. Rule. By consent, rule is made returnable forthwith.

3. The petitioner is seeking quashing of proceedings relating to C.C. NO. 2317/2005 pending before the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai. The said case is under Section 138 r.w. 141 of Negotiable Instruments Act.

4. The learned advocate for the petitioner has

contended that the cheque in question was issued on 19.9.2004, thereafter it was dishonoured and notice was issued on 22.11.2004. It is contended that when the cause of action arose, the petitioner was not the director of the company. It is submitted that the petitioner resigned as a director of M/s. Matulya Mills Ltd. on 28.9.1999 and thus, the petitioner cannot be said to be liable. The resignation of the petitioner as director of the company was also accepted vide resolution passed in the meeting held on 28.9.1999. These facts have not denied on behalf of the complainant. They have admitted the genuineness of Form 32 which clearly states that the petitioner has ceased to be director on 28.9.1999.

5. Looking to the fact that the genuineness of Form 32 on which reliance has been placed has not been disputed, I am of the opinion that this is a fit case to quash the case and the proceedings relating thereto, in relation to the petitioner. Hence, the C.C. No. 2317 of 2005 and the proceedings relating thereto in relation to the petitioner are quashed. It is made clear that the proceedings in respect of other accused may continue.

6. Rule made absolute in terms of prayer clause (b). Writ petition is disposed of.

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